

A medical appliance that qualifies for the low rate of tax is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See the enclosed copy of 86 Ill. Adm. Code 130.310. (This is a GIL).

May 19, 1999

Dear Xxxxx:

This letter is in response to your letter dated April 12, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

As part of its normal operations the BUSINESS purchases medical supplies from out of state vendors. These purchases would be taxed at a lower rate for Use Tax purposes if they were purchased in Illinois.

To assist us in remitting the correct amount of Use Tax to the Department of Revenue, please send a list of medical appliances that are subject to the lower tax rate as shown on line 13 of the monthly ST-1 sales tax return.

If you have questions or need more information, please call me at ####.

Without further information, we cannot comment on your assertion that your Illinois purchases would be taxed at a lower rate if they were made in Illinois. Generally, the Use Tax liability incurred on out-of-State purchases is not greater than the Use Tax liability incurred on in-State purchases. The Department does not keep a list of qualifying appliances due to the large number of items that may qualify. We have provided below a general description that may assist you in making this determination.

Medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower State tax rate of 1%. See the enclosed copy of 86 Ill. Adm. Code 130.310. Items subject to this lower tax rate include prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing utensils, syringes, and needles used by diabetics, for human use.

A medicine or drug is defined as any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities.

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The definition of a medical appliance is "an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body." Although low rate medical appliances may be prescribed by physicians for use by a patient, such status is not essential for application of the low tax rate because 86 Ill. Adm. Code 130.310(c)(2) provides that such items may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients, or purchased directly by individuals. In addition, not all items prescribed by physicians or other licensed health care professionals qualify for the low rate.

Examples of items that qualify for the reduced rate are artificial limbs, dental prostheses and orthodontic braces, heart pacemakers, crutches and orthopedic braces, and wheelchairs. The Department has also determined that splints, slings, and cervical collars generally qualify for the lower rate of tax. Braces that provide support only, such as Ace bandages and athletic-type braces, generally do not qualify for the low rate of tax. Braces that actually restrict mobility and impair the function of the body part being braced may qualify.

As a general proposition, diagnostic, treatment, and rehabilitative equipment items do not qualify for the reduced rate of tax as medical appliances because such items are not "for use in directly substituting for a malfunctioning part of the body," 86 Ill. Adm. Code 130.310(c)(2). Nor are such items corrective medical appliances such as hearing aids or glasses. Examples that do not qualify for the lower rate are diagnostic items such as x-ray machines and laboratory equipment. Please note that supplies, such as non-sterile cotton swabs, disposable diapers, toilet paper, tissues and towelettes and cosmetics, such as lipsticks, perfume and hair tonics do not qualify for the reduced rate. However, sterile dressings, bandages and gauze do qualify for the reduced rate.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.